

Message Text

PAGE 01 NATO 04478 231232Z

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TAGS: MARR NATO

SUBJ: NICS TARE CONTRACT AWARD

REF: A. USNATO 4446; B. BURROUGHS LETTER TO NICSMA, 21 AUG 75

SUMMARY. THIS MESSAGE REPORTS RESULTS OF MEETING WITH BURROUGHS REPS AND PROVIDES ANALYSIS OF THEIR COMPLAINTS CONCERNING NICSMA'S BID EVALUATION. END SUMMARY.

1. AS FORECAST REF A, MISSION REPS (LOVELAND AND MULLEN) MET WITH BURROUGHS REPS (ROGERS AND PAFORT, MARKETING MANAGER FROM PAOLI, PA.) ON 22 AUGUST. DISCUSSION REVIEWED THE HISTORY OF THE TARE BID SOLICITATION AND EVALUATION (PER REF A) AND BASIS FOR BURROUGHS COMPLAINT.

2. PAFORT SUPPLIED US WITH COPY OF REF B (COPY HANDED TO STRAUSS LEON, USDOC, ON 21 AUG) WHICH HE INTENDED TO DELIVER TO NICSMA AFTER MEETING WITH US. AS WE HAD EXPECTED, BURROUGHS HAS NOT CONTESTED THE NICSMA RULING THAT THEIR BID WAS NON-COMPLIANT. INSTEAD, THE LETTER REQUESTS THAT ALL THREE BIDS BE REJECTED BECAUSE:

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PAGE 02 NATO 04478 231232Z

A. IT IS ALLEGEDLY IMPOSSIBLE TO COMPLY WITH THE NICSMA SPECIFICATION CONCERNING AIR CONDITIONING (I.E., MAINTAIN DESIGN TEMPERATURE WITH MAXIMUM OF 12 AIR CHANGES PER HOUR).

B. BURROUGHS SUSPICION THAT NO CONTRACTOR INTENDS REPEAT INTENDS TO MEET NICSMA'S GENERAL AND TECHNICAL CONDITIONS IRRESPECTIVE OF STATEMENTS IN THE BIDS.

3. IN ENCLOSURE TO LETTER BURROUGHS PROVIDES DETAILED CALCULATION OF THE PHYSICAL PARAMETERS LEADING TO THEIR CONTENTION THAT THE AIR CONDITIONING REQUIREMENTS CANNOT BE MET. ENCLOSURE ALSO CLAIMS THAT BURROUGHS' BID POINTED OUT THIS FACT. MISSION CANNOT VERIFY BURROUGHS' CONTENTION CONCERNING THE REQUIREMENT BUT HAS ESTABLISHED THAT BURROUGHS' ANNOUNCED INABILITY TO SATISFY IT WAS NOT QUOTED BY NICSMA AS A REASON FOR DISQUALIFICATION. THAT FACT MAY BE DUE TO RECOGNITION BY NICSMA THAT THE REQUIREMENT WAS PERHAPS TOO STRINGENT AND, IN ANY CASE, NOT A CONTROLLING FACTOR. SINCE THIS ASPECT DID NOT CONTRIBUTE TO DISQUALIFICATION OF ANY BIDS, HOWEVER, WE CANNOT CONCLUDE THAT IT MIGHT HAVE LED TO DISCRIMINATION AGAINST OR FAVORITISM TOWARD ANY COMPETITOR.

4. BURROUGHS SUSPICIONS CONCERNING OTHER CONTRACTORS' BIDS ARE NOT DOCUMENTED IN THE LETTER AND HENCE CANNOT BE ACCEPTED AS GROUNDS TO TAKE THE EVALUATION OUT OF NICSMA'S HANDS FOR QUOTE INDEPENDENT UNQUOTE ANALYSIS.

5. WE CONCLUDE THEREFORE THAT IRRESPECTIVE OF WHETHER OR NOT THE AIR CONDITIONING CALCULATIONS ARE VALID, BURROUGHS' COMPLAINTS DO NOT REPEAT NOT CONSTITUTE BASIS FOR DECLARATION BY THE US OF A DISPUTE AGAINST NICSMA'S FINDINGS. WE HAVE DISCUSSED THIS MATTER WITH UK DELEGATION REPS WHO HAVE BEEN CONTACTED BY THEIR FIRM, PLESSEY, THE PRINCIPAL BURROUGHS SUBCONTRACTOR ON THE TARE PROJECT. UK DEL HAS ALSO REACHED THE CONCLUSION THAT THE RECLAMA IS NOT VALID UNDER NATO RULES.

6. IN VIEW OF ABOVE, RECOMMEND THAT WE BE AUTHORIZED TO PROCEED PER REF A, PARA 5. BRUCE

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